

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CEDRIC LAMONT CHAMBERS,

No. C 12-4553 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL;
GRANTING LEAVE TO PROCEED
IN FORMA PAUPERIS**

vs.

MATTHEW CATE,

Respondents.

(Docket No. 2)

Petitioner, a state prisoner proceeding pro se, has filed a second petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254. His prior petition, like the instant petition, challenged a conviction obtained in Santa Clara County Superior Court in 2002. The prior petition, *Chambers v. Horel*, No. 08-2775 MHP (PR), was dismissed as untimely. A certificate of appealability was denied by the United States Court of Appeals for the Ninth Circuit.

A second or successive petition may not be filed in a federal district court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A). Petitioner has not sought or obtained such an order from the Ninth Circuit. The petition is accordingly **DISMISSED** without prejudice to refiling if petitioner obtains the necessary order. Leave to proceed in forma pauperis (docket number 2) is **GRANTED**.

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Petitioner has failed to make a substantial showing that a reasonable jurist would find the dismissal of his petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this case.

The clerk shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: October 25, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE